

MT LEGISLATIVE HISTORY

Chapter 570 1983

Bill H _____ S 448

Original bill & hist. C

H. Committee on Fish Game

S. Committee on Fish Game

Hearing Date(s) _____ C

Hearing Date(s) _____ C

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3/15 C

2/19 C

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Date Out

3/17 C

2/19 C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SENATE BILL NO. 448

INTRODUCED BY LANE, TOWE, E. SMITH, BOYLAN, CHRISTIAENS,
FULLER, GALT, MAZUREK

BY REQUEST OF THE DEPARTMENTS OF
AGRICULTURE AND FISH, WILDLIFE, AND PARKS

IN THE SENATE

February 16, 1983	Introduced and referred to Committee on Fish and Game.
February 19, 1983	Committee recommend bill do pass. Report adopted. Statement of Intent attached.
February 21, 1983	Bill printed and placed on members' desks.
February 22, 1983	Second reading, do pass. Correctly engrossed.
February 23, 1983	Third reading, passed. Ayes, 37; Noes, 12. Transmitted to House.

IN THE HOUSE

February 28, 1983	Introduced and referred to Committee on Fish and Game.
March 13, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1983	Second reading, concurred in.
March 23, 1983	Third reading, concurred in.

IN THE SENATE

March 24, 1983

Returned to Senate with
amendments

April 6, 1983

Second reading, amendments
concurred in.

April 7, 1983

Third reading, amendments
concurred in. Ayes, 45;
Noes, 5.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *448*
2 INTRODUCED BY *LANE, Sen. E. Smith*
3 BY REQUEST OF THE DEPARTMENTS OF *Christian, Fuller, Hoff, Magnus*
4 AGRICULTURE AND FISH, WILDLIFE, AND PARKS

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL
7 FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS
8 87-4-401 THROUGH 87-4-405, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in [sections 1 through
12 18], the following definitions apply:

13 (1) "Game animals" means game animals as defined in
14 87-2-101 that are not the lawful property of any private
15 person.

16 (2) "Game farm" means the enclosed land area upon
17 which game farm animals may be kept for purposes of
18 obtaining, rearing in captivity, keeping, and selling game
19 animals or parts of game animals, as authorized under
20 [sections 1 through 18].

21 (3) "Game farm animal" means a privately owned
22 caribou, bear, mountain lion, white-tailed deer, mule deer,
23 elk, moose, antelope, mountain sheep, or mountain goat
24 indigenous to the state of Montana or any other
25 cloven-hoofed ungulate as classified by the department.

1 (4) "Game farm shooting license" means the license
2 required under [sections 1 through 21] for a game farm
3 licensee to hunt the game farm animals indigenous to the
4 state of Montana on his game farm.

5 (5) "Person" means an individual, firm, corporation,
6 association, or partnership.

7 Section 2. License required. No person may operate a
8 game farm in this state without first obtaining a game farm
9 license from the department.

10 Section 3. Department jurisdiction -- applicability
11 of livestock laws and rules. (1) The department has primary
12 jurisdiction over game farms.

13 (2) A game farm licensee must also comply with all
14 applicable laws and rules administered by the department of
15 livestock.

16 Section 4. Application for license -- limitations on
17 issuance. (1) Any person desiring to obtain a game farm
18 license shall make written application to the department.
19 The application shall specify:

20 (a) the applicant's name;

21 (b) the applicant's address;

22 (c) the exact legal description of the land upon which
23 the game farm is to be located, together with the nature of
24 the applicant's title thereto, whether in fee, under lease,
25 by contract for deed, or otherwise;

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1 (d) the species of game animals proposed to be kept or
2 reared on the game farm;

3 (e) the type of fencing contemplated;

4 (f) the source from which the applicant intends to
5 acquire the game animals;

6 (g) if the applicant is not a Montana resident, the
7 name and address of a Montana resident designated by the
8 applicant as his local agent;

9 (h) if the applicant is a corporation, the full names
10 and addresses of all stockholders owning more than 10% of
11 the stock in the corporation; and

12 (i) information demonstrating that the applicant is
13 responsible.

14 (2) A game farm license may be issued only to a
15 responsible applicant who owns or leases the premises on
16 which the operations are to be conducted and who has
17 properly fenced the land upon which the game farm is to be
18 located. The fencing must be designed and constructed to
19 prevent the escape of the species of game farm animals kept
20 on the land and to prevent the entry of the same species of
21 game animals.

22 (3) Within 60 days of receiving the application, the
23 department shall notify the applicant of its decision to
24 approve or deny the application. If required fencing has not
25 been completed, the department may approve the application

1 only subject to completion of the fencing. If the
2 application is denied, the department shall specify the
3 reasons for denial.

4 Section 5. Removal of game animals. (1) If game
5 animals are present on the land which is to be covered by a
6 game farm license, the license may be issued but must be
7 conditioned upon the applicant complying with this section.

8 (2) Before the fence surrounding any such land may be
9 closed, all game animals must to the extent possible be
10 driven therefrom by the applicant, at the applicant's
11 expense and under the direction of a representative of the
12 department.

13 (3) If at the time the license is issued all game
14 animals cannot be removed from the licensed land, the
15 applicant and a representative of the department shall
16 decide the approximate number of game farm animals of each
17 indigenous species that the applicant will raise thereon.
18 This number is the "base number".

19 (4) The department may remove the base number of game
20 animals from the game farm by trapping them within 120 days
21 from the date the number was determined.

22 (5) If the department decides not to remove the game
23 animals or if some game animals were not successfully
24 removed by trapping, the public must be granted access to
25 harvest those game animals during a special hunt set for

1 that purpose during the next regularly scheduled hunting
2 season. All administrative costs incurred by the department
3 in arranging the special hunt or providing for hunting on
4 the applicant's land during the regular season must be
5 reimbursed by the applicant.

6 (6) After compliance with this section, any animals
7 from the base number that remain and their progeny belong to
8 the licensee, and the licensee may deal with them as
9 provided for in [sections 1 through 18].

10 Section 6. License and renewal fees -- deposit of
11 fees. (1) The department shall charge an initial game farm
12 license fee of \$100 and for each year thereafter shall
13 charge an annual renewal fee of \$25.

14 (2) The fees must be deposited in the earmarked
15 revenue fund for the use of the department for purposes of
16 [sections 1 through 18].

17 Section 7. Term of license -- nontransferability.
18 (1) A game farm license expires on January 31 of the year
19 succeeding the year of issuance. Application for renewal
20 must be made before a license expires. The department shall
21 renew the license upon payment of the renewal fee if the
22 licensee has not violated any provisions of [sections 1
23 through 18] or conditions under which the license was
24 granted.

25 (2) A game farm license is nontransferable.

1 Section 8. Inspection. (1) Upon receipt of an
2 application for a game farm license, the department shall
3 inspect the land proposed to be covered by the license.

4 (2) After issuance of a game farm license, the
5 department may inspect the game farm or the licensee's game
6 farm books on a scheduled basis or on such other reasonable
7 basis as it considers necessary.

8 Section 9. Game farm animals as private property. (1)
9 All game farm animals lawfully raised on a licensed game
10 farm are the private property of the licensee.

11 (2) The licensee may acquire, breed, grow, keep,
12 pursue, capture, kill, use, sell, or dispose of the game
13 farm animals and their progeny in any quantity, at any time
14 of year, and in any manner, as long as he complies with the
15 requirements of [sections 1 through 18].

16 (3) Before allowing hunting of any game animals on a
17 game farm, the game farm licensee must obtain a game farm
18 shooting license from the department.

19 (4) The laws applicable to game animals do not apply
20 to game farm animals raised on a licensed game farm.

21 Section 10. Transportation and sale of game farm
22 animals. (1) No person may sell, dispose of, or transport a
23 living game farm animal except as provided in this section.

24 (2) Whenever the licensee of a licensed game farm
25 sells or disposes of one or more game farm animals, he

shall, at the same time, deliver to the recipient or attach to each such game farm animal an invoice or bill of sale signed by the licensee or his agent stating the number of the game farm license, the date of disposition, the species, the number disposed of, and the name and address of the transferee. This invoice or bill of sale authorizes transportation of the game farm animal or animals being sold, transferred, or disposed of.

(3) Within 24 hours of disposition, the licensee or his agent shall mail postpaid a duplicate of the invoice or bill of sale to the department of livestock and the department.

Section 11. Sale of game parts, meats, and byproducts.

(1) No person may sell, dispose of, or transport the carcass, parts, or byproducts of a game farm animal except as provided in this section.

(2) A game farm licensee may sell or otherwise dispose of the carcass, parts, or byproducts of a properly identified game farm animal taken from a game farm, upon preparing an invoice or bill of sale and attaching a copy of it to the carcass or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or byproducts of the game farm animal, the same may be transported within the state to the transferee named on the invoice or bill of sale.

(3) The licensee may sell game farm animals for meat upon compliance with all applicable health laws.

Section 12. Records and reporting. (1) Each game farm licensee shall keep and maintain for 3 years accurate written records of all purchases, transfers, and sales of game farm animals showing:

(a) the number of each species of game farm animal purchased by the game farm licensee and from whom purchased;

(b) the number of each species of game farm animal transferred or sold, the date of transfer or sale, and the name and address of the person to whom the transfer or sale was made; and

(c) identification by number of each game farm animal purchased, transferred, or sold.

(2) On or before January 31 of each year, the game farm licensee shall file a report with the director, showing the number and species of game animals on hand as of January 1 and the number and species of game animals bought or sold during the past year.

Section 13. Unlawful capture. No person may capture, take, or otherwise acquire any game animal in this state for use on a game farm.

Section 14. Escape from game farm — effect. If a game animal escapes from a game farm, the game farm licensee shall immediately notify the department of its escape and

shall make every reasonable effort to recapture it. If the escaped animal cannot be recaptured within a reasonable time, it becomes the property of the state.

Section 15. Taxation. All game farm animals raised on a game farm must be assessed as personal property of the owner.

Section 16. Game farm shooting license. (1) Before a game farm licensee may hunt any indigenous game animals of Montana on his game farm, he must first obtain a game farm shooting license.

(2) The department shall issue to a game farm licensee a game farm shooting license on an annual basis for the number of animals that he wishes to hunt.

(3) The department shall issue individual tags to the game farm licensee at a charge of \$15 a tag. The tags must contain such information as the department requires. A tag must be attached to each animal immediately after it is killed and must accompany the animal until it is taken to its final destination.

Section 17. Rulemaking. (1) The department may adopt and enforce rules necessary to implement the provisions of [sections 1 through 18].

(2) The rules must address but are not limited to classifying of cloven-hoofed ungulates, fencing requirements, reporting requirements, transportation and

importation, identification, sale of animal parts, the care and maintenance of game farm animals, and game farm shooting licenses.

Section 18. Revocation of license. (1) A game farm license may be revoked for failure to operate the game farm according to the provisions of [sections 1 through 18] or rules adopted under [sections 1 through 18].

(2) Upon discovery of a violation, the department shall give notice of the violation to the licensee, with a statement of a specific time in which the violation must be corrected.

(3) Upon failure of the licensee to correct the violation, the department may institute revocation proceedings. If the department institutes revocation proceedings, it shall provide reasonable notice and opportunity for a hearing to the licensee. After hearing and upon proof of violation, the department may revoke the game farm license.

Section 19. Current licenses valid. A game farm having a valid license on October 1, 1983, may receive a game farm license in the manner provided by [sections 1 through 18] for renewal of game farm licenses, except that no renewal fee may be charged until 1 year after initial licensure under this section.

Section 20. Game birds defined. For purposes of

1 [sections 20 through 35], "game birds" means all birds
2 defined as game birds in 87-2-101, except that the only
3 pheasants included are ring-necked pheasants, and quail are
4 not included.

5 Section 21. Exemption. [Sections 20 through 35] do not
6 apply to a person who owns, controls, or propagates game
7 birds for purposes other than sale or conveyance of game
8 birds or parts thereof and who notifies the department and
9 receives its written authorization and exemption.

10 Section 22. Game bird farm license required. Except as
11 provided in [section 21], no person may own, control, or
12 propagate game birds unless he holds a current game bird
13 farm license from the department.

14 Section 23. Application for game bird farm license --
15 limitation on issuance. (1) A person desiring to obtain a
16 game bird farm license shall make a written application to
17 the department. The application must specify:

- 18 (a) the name of the applicant;
- 19 (b) his address;
- 20 (c) the species of game bird and any plans to
- 21 propagate them;
- 22 (d) the legal description of the lands to be included;
- 23 (e) the type of fence or enclosure that the applicant
- 24 contemplates erecting;
- 25 (f) the source of game birds; and

1 (g) for a nonresident owner, the name and address of a
2 local resident agent.

3 (2) (a) A game bird farm license may be issued only to
4 a responsible applicant who owns or leases the premises on
5 which the operations are to be conducted and who has
6 properly fenced or otherwise enclosed the place where such
7 game bird farm is to be located.

8 (b) Any game bird farm owned by a nonresident must
9 have a resident agent who is responsible for the daily
10 operation of the farm and who is authorized by the
11 nonresident owner to receive service of process.

12 (3) Within 30 days of receiving the application, the
13 department shall notify the applicant of its decision to
14 approve or deny the application. If required fencing or
15 enclosure has not been completed, the department may approve
16 the application only subject to the fencing or enclosure
17 being completed. If the application is denied, the
18 department shall specify the reasons for denial.

19 Section 24. License and renewal fee -- deposit of
20 fees. (1) Game bird farm license and annual renewal fees
21 must be set by department rule in amounts not to exceed \$100
22 for initial licensing and \$25 for annual renewal.

23 (2) The fees must be deposited in the earmarked
24 revenue fund for the use of the department for purposes of
25 [sections 20 through 35].

1 Section 25. Term of permit -- conditions --
 2 changes in operation. (1) A game bird farm license is valid
 3 only for the license year for which it is issued. The
 4 licensee shall apply for renewal annually, and the
 5 department shall renew the license if the licensee has not
 6 violated any provision of [sections 20 through 35], rules
 7 adopted under [sections 20 through 35], or any condition of
 8 the license.

9 (2) The licensee shall notify the department of any
 10 proposed changes in the species managed or in the size or
 11 location of the enclosure prior to the institution of such
 12 change.

13 Section 26. License nontransferable. A game bird farm
 14 license is nontransferable.

15 Section 27. Inspection. Upon receipt of an
 16 application, the department shall inspect the game bird farm
 17 facilities and shall thereafter inspect the facilities at
 18 least biennially. The department may inspect any game bird
 19 farm or the records required to be kept by such farm at any
 20 reasonable time.

21 Section 28. Game farm birds as private property. All
 22 birds lawfully raised in a licensed game bird farm are the
 23 private property of the licensee, and the licensee may sell
 24 or transfer such birds as private property.

25 Section 29. Transportation of birds. Any birds

1 purchased for use on a game bird farm or any birds raised on
 2 a game bird farm may be transported only in compliance with
 3 Title 81, chapter 2, part 7, and applicable administrative
 4 rules.

5 Section 30. Sale of meat. A licensee may sell game
 6 birds or parts thereof only in compliance with all health
 7 laws applicable to the sale of game meat.

8 Section 31. Records and reporting. (1) Each licensee
 9 shall keep accurate records of the number and species of
 10 birds purchased, transferred, or sold and the name of each
 11 person to whom or from whom such birds were purchased,
 12 transferred, or sold.

13 (2) On or before January 31 of each year, each
 14 licensee shall file a report with the director, showing the
 15 number and species of birds on hand on January 1 and the
 16 number and kinds of birds purchased, transferred, or sold
 17 during the past year. All records described in this section
 18 must be kept for not less than 3 years.

19 Section 32. Rulemaking. The department may adopt and
 20 enforce rules necessary to implement the provisions of
 21 [sections 20 through 35]. The rules must address but are not
 22 limited to fencing requirements, reporting requirements, the
 23 care and maintenance of birds held by game bird farm
 24 operators, and licensing requirements for applicants.

25 Section 33. Release of birds. Game bird farm licensees

1 may release birds into the wild only with the prior approval
2 of the director.

3 Section 34. Field trials -- permits. (1) As used in
4 this section, "field trial" means an examination to
5 determine the ability of dogs to point, flush, or retrieve
6 game birds.

7 (2) No person may conduct a field trial unless he has
8 received a permit under this section. Applicants for a
9 permit to conduct a field trial must make application to the
10 director upon a form furnished by the department for that
11 purpose. The application must be signed and sworn to by the
12 applicant, stating the applicant's name and address, the
13 name and address of any national affiliate, the place for
14 the field trial clearly defined, the date or dates of the
15 proposed field trial, whether live birds are to be used, and
16 any other information required by the director to determine
17 the advisability of granting permission for the proposed
18 field trial. The application must state that if a permit is
19 granted, the applicant will carefully flush all wild game
20 birds from fields used for the field trial each day before
21 the field trial begins and will not permit dogs to run free
22 in fields that have not been carefully flushed. The
23 application must be presented to the director not less than
24 20 days prior to the date proposed for the field trial.

25 (3) The director may refuse any application that he

1 determines is not in the best interests of the protection,
2 preservation, propagation, and conservation of game birds in
3 this state. Any denial by the director of such application
4 must state the reasons therefor and must be mailed to the
5 applicant within 10 days of receipt of the application.

6 (4) No applicant receiving a permit to conduct a field
7 trial may violate or authorize violation of any of the terms
8 of the permit.

9 (5) All live game birds used in a field trial must be
10 tagged before being planted or released and may be planted
11 or released only in the presence of a representative of the
12 department. If an untagged bird is shot during any field
13 trial, the person to whom the permit was issued must
14 immediately replace it with a live bird.

15 (6) (a) Dogs may be trained in open fields at any time
16 without permission of the director only if:

17 (i) no live game birds are killed or captured during
18 training; and

19 (ii) the training is more than 1 mile from any bird
20 nesting or management area or game preserve.

21 (b) A person may train dogs with a method that will
22 kill birds acquired from a game bird farm only after
23 receiving a written permit from the department and only in
24 compliance with the terms of the permit.

25 Section 35. Revocation of license. (1) A game bird

1 farm license may be revoked for failure to operate the game
2 bird farm according to provisions of [sections 20 through
3 35] or rules adopted under [sections 20 through 35].

4 (2) Upon discovery of a violation, the department
5 shall give notice of such violation to the licensee, with a
6 statement of a specific time by which the violation must be
7 corrected.

8 (3) Upon failure of the licensee to correct the
9 violation, the department may institute revocation
10 proceedings. If the department institutes revocation
11 proceedings, it shall provide reasonable notice and
12 opportunity for a hearing to the licensee. After hearing,
13 upon proof of violation, the department may revoke the game
14 bird farm license.

15 Section 36. Definition. For purposes of [sections 36
16 through 48], "furbearer" means a marten or sable, otter,
17 muskrat, fisher, bobcat, lynx, wolverine, or beaver. The
18 term does not include fox or mink.

19 Section 37. Fur farm license required --
20 applicability. (1) Except as provided in subsection (2), no
21 person may own, control, or propagate furbearers unless he
22 holds a current fur farm license from the department.

23 (2) [Sections 36 through 48] do not apply to the
24 ownership, control, or propagation of furbearers if the
25 ownership, control, or propagation is not for the sale or

1 conveyance of furbearers or parts thereof.

2 Section 38. Application for permit. (1) Any person
3 desiring to obtain a fur farm license shall make a written
4 application to the department. The application must specify:

- 5 (a) the name of the applicant;
- 6 (b) his address;
- 7 (c) species of furbearers and any plan to propagate
- 8 them;
- 9 (d) the legal description of the lands to be included;
- 10 (e) the type of fence that the applicant contemplates
- 11 erecting;
- 12 (f) the source of furbearers.

13 (2) (a) A fur farm license may be issued only to a
14 responsible applicant who owns or leases the premises on
15 which the operations are to be conducted and who has
16 properly fenced the place where such fur farm is to be
17 located.

18 (b) Any fur farm owned by a nonresident must have a
19 resident agent who is responsible for the daily operation of
20 the fur farm and who is authorized by the nonresident owner
21 to receive service of process.

22 (3) Within 30 days of receiving the application, the
23 department shall notify the applicant of its decision to
24 approve or deny the application. If required fencing has not
25 been completed, the department may approve the application

1 only subject to the fencing being completed. If the
2 application is denied, the department shall specify the
3 reasons for denial.

4 Section 39. License and renewal fee -- deposit. (1)
5 Fur farm license and annual renewal fees must be set by
6 department rule in amounts not to exceed \$100 for initial
7 licensing and \$25 for annual renewal.

8 (2) The fees must be deposited in the earmarked
9 revenue fund for the use of the department for purposes of
10 [sections 36 through 48].

11 Section 40. Term of permit -- conditions -- changes
12 in operation. (1) A fur farm license is valid only for the
13 license year in which it is issued. The licensee shall apply
14 for renewal annually, and the department shall renew the
15 license if the licensee has not violated any provision of
16 [sections 36 through 48], rules adopted under [sections 36
17 through 48], or any condition of the license.

18 (2) The licensee shall notify the department of any
19 proposed changes in the species managed or in the size or
20 location of the enclosure prior to the institution of such
21 change.

22 Section 41. License nontransferable. A fur farm
23 license is nontransferable.

24 Section 42. Inspection. Upon receipt of an application
25 for a license, the department shall inspect each fur farm

1 and thereafter shall inspect each fur farm biennially. The
2 department may inspect any fur farm or the records required
3 to be kept by such fur farm at any reasonable time.

4 Section 43. Furbearers as private property. All
5 furbearers lawfully raised on a licensed fur farm are the
6 private property of the licensee, and the licensee may sell
7 or transfer such furbearers as private property.

8 Section 44. Transportation of furbearers. Any
9 furbearers purchased for use on a fur farm or any furbearers
10 raised on a fur farm may be transported only in compliance
11 with Title 81, chapter 2, part 7, and applicable
12 administrative rules.

13 Section 45. Sale of furs. A fur farm owner who desires
14 to sell furs shall comply with all the requirements of Title
15 87, chapter 4, part 3.

16 Section 46. Records and reporting. (1) Each licensee
17 shall keep accurate records of the number and species of
18 furbearers purchased, transferred, or sold and the name of
19 each person to whom or from whom such furbearers were
20 purchased, transferred, or sold.

21 (2) On or before January 31 of each year, each
22 licensee shall file a report with the director, showing the
23 number and species of furbearers on hand on January 1 and
24 the number and species of furbearers purchased, transferred,
25 or sold during the past year. All records described in this

1 section must be kept for not less than 3 years.

2 Section 47. Rulemaking. The department may adopt and
3 enforce rules necessary to implement [sections 36 through
4 48]. The rules must address but are not limited to fencing
5 requirements, reporting requirements, the care and
6 maintenance of the furbearers held by fur farm operators,
7 and licensing requirements for applicants.

8 Section 48. Revocation of license. (1) A fur farm
9 license may be revoked for failure to operate the fur farm
10 according to the provisions of [sections 36 through 48] or
11 rules adopted under [sections 36 through 48].

12 (2) Upon discovery of a violation, the department
13 shall give notice of such violation to the licensee, with a
14 statement of a specific time by which the violation must be
15 corrected.

16 (3) Upon failure of the licensee to correct the
17 violation, the department may institute revocation
18 proceedings. If the department institutes revocation
19 proceedings, it shall provide reasonable notice and
20 opportunity for a hearing to the licensee. After hearing,
21 upon proof of violation, the department may revoke the fur
22 farm license.

23 Section 49. Repealer. Sections 87-4-401 through
24 87-4-405, MCA, are repealed.

25 Section 50. Codification instruction. Sections 1

1 through 18 and 20 through 48 are intended to be codified as
2 an integral part of Title 87, and the provisions of Title 87
3 apply to sections 1 through 18 and 20 through 48.

-End-

MINUTES OF THE MEETING
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 19, 1983

The meeting of the Fish and Game Committee was called to order by Chairman Ed B. Smith on February 19, 1983 at 12:20 P.M. in Room 402, State Capitol.

ROLL CALL: Roll was called with Senator Severson excused and Senator Jacobson and Senator Lee excused to attend another committee hearing.

CONSIDERATION OF SENATE BILL NO. 448: Senator Lane, District #40, as sponsor of this bill, requested that Senator Towe explain the bill to the committee. A Statement of Intent for this bill was furnished to committee members and is attached as Exhibit 1.

Senator Towe went through the bill, section by section, and explained the bill in relation to game animal farms, game bird farms and fur farms. He stated he has worked on this for a long time and with the help of the Fish and Game Department and the Department of Agriculture feels he has put together a bill that has the support of the people who are affected in all respects.

Chairman Smith said we would deviate from the normal hearing procedure because of the time limit. The committee members may ask questions through the testimony period.

Senator Smith questioned the \$15.00 tag on page 9, line 15.

Jim Flynn said in this whole process they have tried to relate costs of certain sections with how much administrative costs will be involved. It originally started out with the requirement of the invoice or tag so that the public concern would be taken care of and in that requirement there would be that sort of administrative cost involved.

Senator Smith asked if this was in agreement by the game farm operators.

Mr. Flynn said the representatives on the committee were agreeable to this.

Senator Mohar referred to page 3, line 10, "stockholders owning more than 10% of the stock in the corporation". He asked why that would make a difference.

Senator Towe said they are concerned this would be the business of some wealthy individual who may be the President of General Motors who is involved.

Mr. Flynn said there was some concern expressed by the livestock representative on the committee with relation to non-resident ownership of the property.

Senator Smith asked Les Graham if the bill of sale, that must accompany the livestock or dead carcasses, would be the obligation of the brand inspector.

Mr. Graham said our intent would be that we would use our regular forms and the game farms are identified throughout the state. Our officers stop more cars than any others and our guys are accustomed to watch for this.

Senator Smith asked if it was the decision of the group that the local brand inspector would give a bill of sale.

Mr. Flynn said you do not have to get the certificate from the local game warden or brand inspector. We would give the certificates to the game farm operators and when a client kills an animal they would mail the certificate to us and to the Department of Livestock. That way the proper agency will be notified.

Senator Mohar said once you fence a piece of land and get rid of the animals, how does a person get game farm animals for his ranch.

Senator Towe said he buys them or gets them from other game farms. When you apply for a license you have to state the source from where you expect to get these animals.

Senator Smith said they will multiply just as they do in the wild.

Senator Mohar said if you shoot one of your elk you have to pay \$15.00 to the state.

Keith Kelly, Department of Agriculture, said the game farm operator buys the tags for the elk he will sell for the year. Those that are offered for the hunt and killed, the game farm operator puts a \$15.00 tag on them.

Keith Kelly, Director, Department of Agriculture, was designated by Governor Schwinden as Chairman of the game farm task force. There has been a controversy going on since the early 70's. The task force was appointed to resolve the issues. The task force did have some difficult times but we ended up with a unanimous vote for this game farm proposal. The bill has some drafting errors but the members of the task force concur that what we originally wanted and intended with the bill is there and we just need to clean-up the language. He suggested that the bill be passed to the House to allow them time to prepare amendments which can be presented when the House hears the bill.

Senator Smith said he talked with one of the task force members and discussed the bill with him. He explained we were in a real crunch for time but that he would talk with the Chairman of the Fish and Game Committee in the House and explain that we were passing the bill out of committee but the bill is not in its proper form and some amendments will have to be adopted in the House. He has in fact spoken with the Chairman of the House Fish and Game Committee and there is no problem there.

Senator Lane said he is sure some ranchers are going to ask about the health of some of these animals.

Les Graham said that section of the bill refers back to the current rules of the Department as relates to diseased animals. That is another reason for the certificate. They will run through the same procedure as any other livestock.

Senator Towe said the fence is a protection force to make sure there is no mingling between the wild animals and the game farm animals.

Keith Kelly said on page 2 the statement "A game farm licensee must also comply with all applicable laws and rules administered by the department of livestock" should take care of any problems. Those rules do not show up in this bill but they are all in the Department of Livestock and must be complied with.

Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in support of this bill. A copy of his written statement is attached as Exhibit 2. It was the original intent of the committee that this be three bills -- game farms, bird farms and fur farms -- but the intent of the committee wasn't completely related to the Legislative Council and the three bills were drafted together. The task force is still in agreement with the bill as long as it can be amended.

Senator Smith said there is not enough time to get the amendments drafted into the bill. If the amendments aren't put in in this committee they will be addressed in the House. This committee still has the power to see that those amendments are made in the House. This committee still has the final say on what should or should not be addressed in the bill.

Dave Majors was a member of the game farm task force and concurs with Mr. Flynn's and Mr. Kelly's testimony.

C. Fredrick Frey, a rancher from Missoula, is in support of this bill but it does need some changes.

Dean Peterson was a member of the task force and is in agreement with the gentlemen who have already testified. Their original intent got changed a little but it can be taken care of.

Thomas L. Kempf, Billings, furnished the committee with a copy of a letter from Ward Swanser, a member of the game farm task force. A copy is attached as Exhibit 3. Mr. Kempf said in 1977 he made application for a game farm and \$26,000 and 19 months later he got his permit. If we can alleviate some of the problems he had with this bill he feels it will be justified. Ward Swanser could not be at the hearing today but he explained his problems with the bill, as drafted, in his letter. He requested the committee members and Mr. Flynn and Mr. Kelly to review the comments made in Mr. Swanser's letter.

Mr. Kelly said in looking over Mr. Swanser's letter it looks like we have addressed all of the points mentioned at our meeting this morning.

Senator Smith said when the House Fish and Game has their hearing on this bill there will be more time to plan and address the problems in the bill. He told Mr. Flynn and Mr. Kelly to go ahead and get the amendments prepared for the bill with the understanding that we are letting this bill go over to the House but that the Senate Fish and Game Committee will again review the bill.

Mr. Flynn said they will prepare the amendments and review them with the task force members. He suggested, at the time of the House hearing on this bill, that the House and Senate Fish and Game Committees have a joint hearing.

Les Graham said that the Board of Livestock members will support this bill only if it is amended back to the form originally intended.

DISPOSITION OF SENATE BILL NO. 448: Senator Mohar made a motion that SB 448 do pass with the consideration that there will be amendments and this committee will meet in joint session with the House Fish and Game Committee on the hearing date of this bill. The motion passed unanimously with the members present -- Senators Lane, Tveit, Mohar and Smith.

Senator Mohar made a motion that the committee adopt the Statement of Intent to the bill. The motion carried unanimously with the members present.

DISPOSITION OF SENATE BILL NO. 336: Andrea Merrill furnished the committee members with a copy of the amendments requested by the committee at our last meeting. A copy is attached as Exhibit 4.

Senator Smith told the committee that the amendments have been addressed and were already thoroughly discussed.

Senator Mohar made a motion that we adopt the amendments. The motion passed unanimously with the members present. Senator Jacobson had just previously returned to the meeting and voted

ROLL CALL

FISH & GAME

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2/19/83

NAME	PRESENT	ABSENT	EXCUSED
Senator Severson			✓
Senator Lee			✓
Senator Tveit	✓		
Senator Lane	✓		
Senator Mohar	✓		
Senator Jacobson	Arrived at the meeting late.		
Senator Smith	✓		

Each day attach to minutes.

NAME: C. FREDRIC FREY DATE: 2-19-83

ADDRESS: 6855 mullan Rd, Missoula, MT 59802

PHONE: 549-0530

REPRESENTING WHOM? Self & Game Farm Task Force.

APPEARING ON WHICH PROPOSAL: SB 448.

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: Members of the Governor's Game Farm Task Force
that developed the criteria and intent of this bill.
Some while along the line, necessary amendments must
be made to reflect the task force intent, as some
areas were not properly addressed in drafting. I wish
to see the bill passed in whatever means necessary,
as long as amendments are made, whether in committee,
on the Senate Floor or in the House.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: David h. Major DATE: 2/19/82

ADDRESS: 1417 Middle Bent Fork Rd, Stearnsville, Mt

PHONE: 777-3642

REPRESENTING WHOM? self

APPEARING ON WHICH PROPOSAL: SB 448

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: I as a member of the Bone Farm Task
Force I support the intent of this bill.
There are some drafting errors & other minor
changes which will need to be made.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STATEMENT OF INTENT
Senate Bill No. 448 [LC 1173]

This bill requires the Department of Fish, Wildlife, and Parks to make rules for game animal farms under section 17, game bird farms under section 32 and fur farms under section 47. It is the intent of the Legislature that these rules address procedural items necessary for a timely and efficient processing of applications and licenses and provide the information necessary for administration of the criteria provided in those sections.

SB 448

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks
February 19, 1983

My name is Jim Flynn, Director of the Department of Fish, Wildlife and Parks. I appear before you today in support of Senate Bill 448.

This bill is the culmination of many hours of hard work by the Game Farm Task Force. This bill remedies many of the problem situations that the Department has encountered in the creation, maintenance, and enforcement of the present game farms in the state.

One of the problems the Department has experienced in the past is making sure that no publicly-owned animals are within the game farm area when the game farm animals are placed within the fenced area. This bill specifically provides for a procedure, satisfactory to the Department, enabling us to spend less time concerned with whether some publicly-owned game animals are being mixed with privately-owned game animals.

There are some errors in the bill which occurred in the bill drafting stage. If the Committee desires the addressing of those at this hearing we would be glad to cooperate. If it is the desire to pass the bill and amend it in the other house, we would be glad to cooperate in that effort under more favorable time frames.

All in all, this bill alleviates many concerns of many diverse groups which have existed for some time. The mere fact that it is before the Committee with the general support it has is meaningful in itself.

February 19, 1983

LAW OFFICES

MOULTON, BELLINGHAM, LONGO & MATHER, P. C.

SECURITIES BUILDING

BILLINGS, MONTANA 59103

February 18, 1983

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GERALD B. MURPHY
RANDY H. BELLINGHAM
ROBERT H. PRIGGE
SIDNEY R. THOMAS
RICHARD A. BREKKE
GREGORY G. MURPHY
WILLIAM A. FORSYTHE
MICHAEL G. MAJERUS
DANIEL K. MILLER

Mr. Keith Kelly
State of Montana
Department of Agriculture
Agriculture/Livestock Building
Capitol Station
Helena, Montana 59620

Dear Keith:

On Wednesday, February 16, 1983, I received the proposed legislation. Needless to say, I was quite shocked by it and found that it violated the intent of the proposed legislation submitted by the task force and which was agreed to in November, 1982, and which was submitted to us with your letter of January 10, 1983.

At this time I will attempt to point out the discrepancies in the bill and my objections to the changes gratuitously made by draftsmen.

1. Section 1, Para. 4 (page 2) Game Farm Shooting License. Rather than being a license as referred to under Sections 1 through 21, it should read "means the license a gam farm operator must have to hunt" etc.

2. Section 4, (2) (Page 3) line 14. This was redrafted and changed the intent that the department "shall issue a license" to "may issue a license". This is totally and completely unacceptable. We do not want the department to have the discretion to decide when they will or will not issue a license. We are talking about the private property right that every individual has to raise livestock as long as he complies with the other provisions of the Act as was discussed in the task force.

Mr. Keith Kelly
February 18, 1983
Page 2

3. Section 4. Line 16. Page 3. The original bill provided that you would receive an application "when the applicant has fenced the land designated in the application". This was changed to require that you fence first before you can obtain a license. This should be changed back to the old language.

4. Section 4(3). Page 3. Line 22. This was re-written. The task force proposal provided that "the department shall notify the applicant of its decision to approve the applications subject to the required fencing being completed". The change allows the Department to approve or deny the application and if required fencing has not been completed the department may only approve the application subject to completion of fencing. This changed the intent and the task force language should be re-instated.

5. Section 5. Page 4, Line 6. Once again, the draftsman gave discretion as to whether a license would be issued and changed "will" to "may". "Will" should be re-inserted.

6. Section 5(3). Page 4, Line 16. This is a typographical error and a misnomer on behalf of the bill draftsman. Line 16 should read as the old language appeared in our task force bill referring to "game animals" rather than "game farm animals". It should read: ". . . the department shall decide the approximate number of game animals of the species desired to be raised thereon (referred to herein as the 'base number')".

7. Section 7. Page 5, Line 22. This as revised does not provide for an automatic renewal of the license. By inserting the additional language it now allows the license to not be renewed if there has been any violation of the Act. To cover any violations we put in a specific revocation provision to take care of them. What we, as game farmers, are interest in is that we would have an opportunity to correct any alleged violation prior to the time that any license would be forfeited. By changing the language in the manner that they did, the department would be able to sit back and not renew your license by alleging a violation. Line 22, page 5 should read as the task force bill did, as follows: "The Department shall renew the license upon payment of the renewal fee if the licensee has not violated any of the provisions under which it was granted."

8. Section 8(2), Page 6. Line 6. Which provides for inspection. Our proposed draft provided that additional inspections would occur should it be deemed necessary. "Should it be deemed necessary" was replaced by "as it considers necessary." There is a difference in the intent, the latter being that the department has the sole discretion as to whether it will make unreasonable inspections of the property as opposed to where the department must show that there is some reason to make additional inspections. The old language should be reinstated.

9. Section 10(1), Page 6, Line 20. Item no. 1 of section 10 was added. It provides that no person may sell, dispose of or transport a living game farm animal except as provided in this section. I think that is overly broad and should be stricken. What we were attempting to deal with was the transportation in commerce of game farm animals. I may transport a game farm animal on my property, or between two properties owned by me and not have to comply with the Act. Item No. 1 should be deleted.

10. Section 10(2). Page 6, Line 25. Rather than say "attach" the bill of sale or invoice to the game farm animal, I think it should read that the bill of sale or invoice will "accompany" the game farm animal.

11. Section 10(3), Page 7, Line 8. New language has been added that requires a copy of the bill of sale or invoice to be sent to the department within 24 hours of disposition. I think this is unreasonable. The old section merely provided that a copy of the invoice or bill of sale would be delivered to the Department of Livestock and the Department of Fish, Wildlife & Parks. This is adequate. It may be impossible for some people to, within 24 hours, mail to the department. I am particularly thinking of individuals who live way out in the country and someone picks up an animal from their farm. They may not have access to a post office and may not be able to get something in the mail within 24 hours. I think this is an overly technical area which should be deleted.

11. Section 11. Page 7, Line 13. No. 1 of that section is new and should be deleted for the same reason mentioned above. There are adequate provisions made in the balance of the section with regard to sale of game farm parts, meats or by-products.

12. Section 12(1)(c), Page 8, Line 12. This should be deleted. We may not have permanent numbers on all game farm animals and when identified the identification may change. This serves no useful purpose and was added and should be deleted.

13. Section 13. Page 8. Here again, I think the intent of the section on unlawful capture has been changed. The idea was that no person may capture any state owned game animal to be used on a game farm. The draftsman added "or otherwise acquire any game animal in this state for use on a game farm". This could technically be read to prohibit me purchasing animals that Henry Stip might own. That is not the intent and I think we should insert after "game animal" on Line 20 "from the wild", as we had in our original draft proposal.

14. Section 14, Page 8, Line 23. Defining game animal, it should be "game farm animal" rather than "game animal".

15. Section 15, Page 9. On taxation, rather than state that the animals "must" be taxed, state "may" be taxed. I think taxation should be the same as on other livestock and if livestock are taxed so will game farm animals. But there may be no required tax on other livestock or on certain game farm animals such as bear.

16. Section 17, Page 9. I think this is too broad. We set forth certain areas where rule making was allowed. Rule making need not occur in any other areas. I think it should go back to the original definition of rule making and further provide that the rules are for the enforcement of those regulations not the implementation of them. This could mean that no action could be taken until some rules were adopted. This section should be changed back to the original language.

17. Section 19, Page 10. Grandfather clause. This was re-written and called "Current licenses valid." I think the old section should be reinstated in its entirety and this one should be deleted. The old section provided that "All licensed game farm operators shall be entitled to receive a game farm license from the department for the operation of their game farms at such time as this Act becomes effective." This is far different than saying that they "may" receive a game farm license in the manner provided by sections 1 through 18. This could require that they submit a new application in order to obtain a license. That was not our intent. We need the grandfather clause.

18. Identification. Identification was addressed in the original task force bill and has been deleted. I think it should be re-inserted. We had a separate clause entitled "Identification" which provided as follows: "Upon the purchase, sale or transfer of any game farm animal, the licensee must identify those animals removed." This should be added as a new section, say section 21.

19. Turning now to the game bird bill, I have similar objections to it that I had in the game farm bill. Those primarily revolve around Section 3(2), saying that a license "may" be issued rather than "shall" be issued, and implying that they must also previously fence the enclosure. This should be changed exactly as the game farm bill was to put it back as the task force had recommended for game farms, fur farms and bird farms.

20. Section 25. Pages 12 and 13. The same language was changed on the renewal of the license as was changed in the game farm bill, and it should be changed to read as it was in the draft from the task force. Once again, individuals want to have notice of any alleged violations and opportunity to correct them and not allow the department to sit back and deny a license by saying that there is a violation.

Mr. Keith Kelly
February 18, 1983
Page 5

21. Section 32. Rulemaking. The same comments I had on the game farm bill apply to this one.

22. Section 34. Field trials. I note that they left out the definition of "bird field", "receiver field trial", and "pointer-setter field trial". I don't know whether this means anything but it was deleted from the Act.

23. The fur farm bill - The same requirements and changes with regard to obtaining a license subject to fencing and renewal of license and rulemaking apply as apply to the game farm bill and game bird bill.

24. Section 50. Page 21. I believe the last line of the bill should read ". . apply to sections 1 through 19 and 20 through 48" rather than "1 through 18 and 20 through 48. . .".

Unless all of these changes are made, I will have no choice but to oppose the proposed legislation. I think that there has been a substantial modification of the intent of the task force bill. I understand ^{how} ~~why~~ this could have occurred when I found out that it was Woody ^{Wright} ~~Woods~~ who re-wrote the bill. Woody used to be the attorney for the Fish and Game Department during the time we were having all of the controversy on the Big Horn Game Ranch.

I would like to have a copy sent to me of any revisions that are made in the bill. I want to be sure that it represents what the task force agreed upon and does not take away any rights that we negotiated. I would also like to be advised of the time when any hearings on the bill come forward before the Senate or the House.

Thank you for your patience in wading through these changes.

Yours very truly,

Ward Swanser

WS:am

cc: Task Force Members
All Montana Game Farm Operators

HOUSE FISH AND GAME COMMITTEE MINUTES
March 15, 1983, page 2

SENATE BILL 448

Chairman Nilson explained that this bill came up just prior to transmittal in the Senate. It was known that there were a number of amendments that needed to be made, addressing technical problems with the bill. We have printed the amended version of the bill on a gray copy. (see exhibit 3)

SENATOR LEO LANE, District 40, Three Forks, submitted a written copy of his opening statement. (see exhibit 4)

PROPOSERS

SENATOR THOMAS TOWE, District 34, Billings, said I introduced this bill in the last session of the legislature. The bill was held barring the appointment of a committee. This was done. This committee met, and all of the concerns of each party involved were taken care of. The bill is divided into three parts. There is a difference between a game animal and a game farm animal. A game farm animal is subject to private ownership, and can be hunted on an individual's game farm without having to comply with the normal fish and game license. When they take an animal, it is tagged so they can prove they purchased these animals at a game farm. The sportsmen are guaranteed that there is no intermingling of game farm animals with regular game animals which are not privately owned. On the top of page 9, it states that no person can capture, take, or otherwise acquire any game animal in this state for use on a game farm. On the top of page 11 of the gray bill, starts the second part of the bill which is the game birds. It defines what a game bird is and what a game bird farm license is. On the top of page 18, a fur farm is defined. A fur farm is an area enclosed, in which a fur bearer is kept in captivity.

JIM FLYNN, Department of Fish, Wildlife, and Parks, submitted written copies of his testimony to committee members. (see exhibit 5) Mr. Flynn also represented the Department of Agriculture, and submitted a written statement from the department in favor of Senate Bill 448. (see exhibit 6)

SENATOR ED SMITH, District 1, Dagmar, said the reason for the amendments is that we got the bill so close to the deadline that there was no way we could go in and eliminate all of the problems by putting those amendments in the bill. We passed it through the Senate so we could work through the problems in conjunction with the House. Between the Department of Livestock, Department of Fish and Game, Department of Agriculture, the game farm operators, and others involved, I think they have come up with a very good compromise. After two years of work on this problem, I would hope that this bill is passed.

HOUSE FISH AND GAME COMMITTEE MINUTES
March 15, 1983, page 3

EMILY STONINGTON, Montana Wildlife Federation, voiced the support of her organization for Senate Bill 448.

WARD SWANSER, Game Farm Task Force, said the bill as amended reflects the intent of the game farm task force. Consideration should be given only to the gray version.

JIM GLOSSER, Department of Livestock, said in representing my organization, I would encourage the committee to render a DO PASS on Senate Bill 448.

DAVID MAJORS, Stevensville, said I am a game bird farm owner. I urge the passage of the gray version of Senate Bill 448.

FRED FREY, Missoula, said I raise game birds and serve on the task force that put this proposal before you. I think we have worked out the controversies.

There were no opponents to Senate Bill 448.

Senator Land closed by stating I would appreciate it if you passed this bill.

There were no questions from committee members.

Chairman Nilson closed the hearing on Senate Bill 448, at 12:55 p.m.

Chairman Nilson turned the chair over to Vice Chairman, Gary Spaeth.

EXECUTIVE SESSION

Rep. Mueller moved Senate Bill 387, BE CONCURRED IN; the motion carried unanimously, with 13 yes votes. Representatives Ellison, Manuel, Swift, and Nilson were excused to attend another hearing.

Acting Chairman Spaeth resumed the hearing on Senate Bill 383.

SENATE BILL 383

SENATOR MARK ETCHART, District 2, Glasgow, opened by stating this is an act to allow a person 62 years of age or older, who has a specific disability that does not interfere with the sport of hunting, but does interfere with the ability to discharge a firearm, to receive certification for a game license that would allow other game hunters to kill the game authorized by the license. The reason for the bill occurred in an instance where a senior citizen who had been an outdoorsman and had hunted all of his life, had cataracts on his eyes. His friend shot a deer for him.

HOUSE FISH AND GAME COMMITTEE MINUTES
March 15, 1983, page 5

Rep. Jensen stated we all have to realize the disability of age. I cannot agree with the notion of selling a license to someone because of their age and a disability of blindness, and allowing someone else to shoot their animal for them.

Rep. Hart said why do you have to be 62? There are a lot of people who have cataracts who are younger than this.

Rep. Hanson stated there are people who have been disabled by a car wreck, who had hunted up until that time.

Rep. Jensen's motion passed 8 to 7, with Representatives Daily, Devlin, Ellison, Hanson, Phillips, Ryan, and Saunders voting no. Representatives Nilson and Swift were not present to vote.

SENATE BILL 448

Discussion was held on Senate Bill 448, and it was decided that the committee would pass on the bill until a later date.

SENATE BILL 126

Rep. Ellison passed out amendments from the outfitters concerning Senate Bill 126. (see exhibit 8)

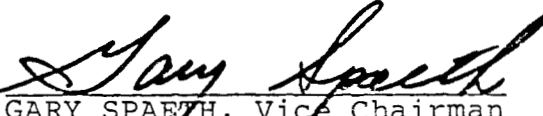
Vice Chairman Spaeth appointed a sub-committee to work on Senate Bill 126, to bring back possible amendments to the bill. The committee consisted of Rep. Ellison, Chairman, Rep. Jensen, Rep. Mueller, and Rep. Hanson.

Senator Ed Smith left a letter from Mr. Glen C. Childers, which was passed out for the information of the committee. (see exhibit 9)

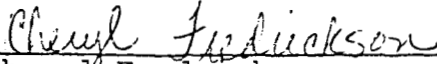
Vice Chairman Spaeth adjourned the meeting at 1:45 p.m.



LES NILSON, Chairman



GARY SPAETH, Vice Chairman



Cheryl Fredrickson, secretary

VISITOR'S REGISTER

HOUSE

COMMITTEE

BILL

DATE _____

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Senate Bill 448

Game Farm Bill

The game farm issue has created controversy and polarized opinion since the early 1970's. This culminated in court proceedings between the Department of Fish and Game and Big Horn Game Ranch in 1977.

With the concurrence of the Legislature, on March 25, 1982, Governor Schwinden appointed a 13-member Game Farm Task Force to develop definitive legislation clarifying regulation of game farm operators and assigning agency jurisdiction.

The Game Farm Task Force, equally blanced between sportsmen, big game farm operators, ranchers, bird farm owners, state fish and wildlife and livestock officials, developed workable legislation. They generally agree on necessary requirements for game farms as presented in the gray copy of S. B. 448 and concur that the Department of Fish, Wildlife, and Parks is the appropriate agency to administer the laws relating to these operations.

S. B. 448 outlines the right of private ownership of game animals, allowing the sale of game parts, meat and by-products, procedures for establishing and monitoring game farms, and the hunting of private game animals.

I met with the task force yesterday as they completed development of the gray copy of S. B. 448 and recommend you endorse the proposed legislation on game farms. This should resolve an issue that has kept ranchers, sportsmen, state officials and game farm operators at odds for far too long. I know that there are several task force members here today that have attended several meetings, traveling long distances, at their own expense, working to develop fair and just legislation. I certainly hope they have an opportunity to speak today.

SB 448

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 15, 1983

My name is Jim Flynn, Director of the Department of Fish, Wildlife and Parks. I appear before you today in support of Senate Bill 448.

This bill is the culmination of many hours of hard work by the Game Farm Task Force. This bill remedies many of the problem situations that the Department, as well as the public, has encountered in the creation, maintenance, and enforcement of the various types of game farms in the state.

One of the problems the Department has experienced in the past is making sure that no publicly-owned animals are within the game farm area when the game farm animals are placed within the fenced area. This bill specifically provides for a procedure, satisfactory to the Department, enabling us to spend less time concerned with whether some publicly-owned game animals are being mixed with privately-owned game animals.

In addition, the bill provides for an acceptable record keeping system to assure that the public interest is maintained and protected.

All in all, this bill alleviates many concerns of many diverse groups which have existed for some time. The mere fact that it is before the Committee with the general support it has is meaningful in itself.

We recommend its passage to you.

Testimony Submitted by

Keith Kelly

Exhibit 6

Director, Department of Agriculture
Chairman, Governors Game Farm Task Force

on Senate Bill 448 - Game Farm Bill

before the

House Committee on Fish and Game

March 15, 1983

I am Keith Kelly, Director of the Department of Agriculture, with offices in Helena, and Chairman of the Governor's Game Farm Task Force. I respectfully request your acceptance of my written testimony as I am unable to personally appear before the Committee today due to a previous commitment.

The game farm legislation is a result of controversy and polarized opinion that has developed since the early 1970's. This controversy culminated in court proceedings between the Department of Fish and Game and Big Horn Game Ranch in 1977.

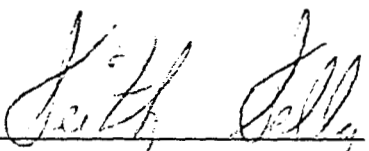
Governor Schwinden, with the concurrence of the Legislature, appointed a 13-member Game Farm Task Force to develop legislation clarifying regulation of game farm operators and assigning agency jurisdiction.

The Game Farm Task Force was equally balanced between sportsmen, big game farm operators, ranchers, bird farm owners, state fish and wildlife and livestock officials. They generally agree on necessary requirements for game farms as presented in the gray copy of S. B. 448 and concur that the Department of Fish, Wildlife, and Parks is the appropriate agency to administer the laws relating to these operations.

S. B. 448 outlines the right of private ownership of game animals, allowing the sale of game parts, meat and by-products, procedures for

establishing and monitoring game farms, and the hunting of private game animals.

The Task Force held its final meeting yesterday and completed development of the gray copy of S. B. 448. I recommend you endorse the proposed legislation on game farms. This should resolve an issue that has kept ranchers, sportsmen, state officials and game farm operators at odds.

/s/ 

Keith Kelly, Director
Department of Agriculture, and
Chairman,
Governor's Game Farm Task Force

HOUSE FISH AND GAME COMMITTEE

March 17, 1983

The meeting was called to order by Chairman Les Nilson in room 420 of the Capitol Building at 12:30 p.m., with all members present except Representatives Daily and Manuel, who were excused.

Chairman Nilson opened the meeting to an EXECUTIVE SESSION.

SENATE BILL 448

Rep. Ellison referred to page 9 of the gray copy of Senate Bill 448. (see exhibit 1) On this \$15. tag, it is going to cost more to get a deer off a game farm than to buy a tag from the Fish and Game Department. Why does it have to be this much?

Chairman Nilson replied if they have an animal that is an indigenous species, how would the game warden know this was not a deer from off the hill? Rep. Swift replied I talked to two people on the task force. They said the only way they arrived at the figure of \$15., was a mention of that figure and they all agreed to it. I would like to see an amendment to this bill.

Rep. Ellison asked Mr. Flynn why it is necessary to charge this fee to issue the tag. The response was the conflict is centered around the concern of the sporting public that if these animals come off game farm property, they should be identified. This figure includes the administrative costs. The sporting public felt appeased by having some sort of a fee. This is a compromise that was agreed upon by all parties.

Chairman Nilson asked Mr. Flynn to respond as to the feeling of the game farmers concerning the proposed amendments. The reply was to any amendments, this is the bill that was agreed upon by the game farmers; sportsmen, and the Department of Fish, Wildlife, and Parks. I would not advise changing the bill at this point.

Rep. Saunders stated the individual who buys this license knows he is going to get a deer.

Rep. Swift said the only thing I am looking at is the cost consistent with and comparable to what other people pay for a tag. There is very little cost to the department.

Mr. Flynn said the testimony the game farmers offered stated that this \$15. would be used 99% of the time in the case of the non-resident hunter. We could compare the \$15. to \$275. for an elk tag, or \$100. for a deer tag.

Rep. Jensen moved Senate Bill 448, BE CONCURRED IN.

HOUSE FISH AND GAME COMMITTEE MINUTES
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Rep. Jensen moved the amendments to Senate Bill 448, the motion carried unanimously.

Rep. Jensen moved Senate Bill 448, BE CONCURRED IN as amended, the motion carried unanimously. Representatives Ream and Spaeth left proxy votes of yes.

Rep. Mueller moved to amend the statement of intent, the motion carried unanimously.

1. Statement of Intent, line 12.

Following: "Sections."

Insert: "It is intended that the license fees to be set by the department be in an amount commensurate with the costs of processing the applications and administering the provisions of the act."

Mr. Jim Flynn, Department of Fish, Wildlife, and Parks, expressed his thanks and the thanks of the Department for the work of the committee during this legislative session.

Robert Van Der Vere, Helena, also expressed his thanks to committee members.

SENATE BILL 126

Rep. Ellison said the subcommittee has met on this bill and the best we can come up with are these amendments.

1. Title, line 7.

Strike: "OR LEASES PRIVATE"

Insert: "REAL"

2. Page 1, line 22.

Strike: "PRIVATE"

Insert: "REAL"

3. Page 1, line 23.

Strike: "or leases"

Rep. Mueller moved the amendments to Senate Bill 126. Rep. Mueller said this doesn't accomplish some of the things we wanted to accomplish. There is no way to stop Mr. Harmon from doing what he is doing with these amendments. We don't want to interfere with what a man is doing on his private property.

Rep. Devlin said I think there should be something, in years to come, to address this whole idea of outfitting on your own property. There should be some sort of a test that wouldn't be as stringent.

STANDING COMMITTEE REPORT

1 of 7

March 17, 19 83

SPEAKER:

MR.

We, your committee on FISH AND GAME

having had under consideration SENATE Bill No. 443

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A BILL FOR AN ACT ENTITLED: "AN ACT TO REGULATE GAME ANIMAL
FARMS, GAME BIRD FARMS, AND FUR FARMS; REPEALING SECTIONS
87-4-401 THROUGH 87-4-405, MCA."

Respectfully report as follows: That SENATE Bill No. 448
be amended as follows:

AMENDMENTS BEGIN ON 2 of 7

DO PASS

STATE PUB. CO.
Helena, Mont.

LES NILSON,

Chairman.

COMMITTEE SECRETARY

March 17, 1933

AMENDMENTS TO SENATE BILL 448

1. Statement of Intent, line 12.

Following: "sections."

Insert: "It is intended that the license fees to be set by the department be in an amount commensurate with the costs of processing the applications and administering the provisions of the act."

2. Page 1.

Following: line 13

Insert: "(1) 'Department' means the department of fish, wildlife, and parks."

Re-number: subsequent subsections

3. Page 2, line 3.

Strike: "sections 1 through 21"

Insert: "section 16"

4. Page 2, line 4.

Strike: "licensees"

Insert: "operator"

5. Page 3, line 15.

Strike: "may"

Insert: "shall"

6. Page 4, line 1.

Strike: "may"

Insert: "shall"

7. Page 4, line 2.

Strike: "only"

8. Page 4, line 7.

Strike: "may"

Insert: "shall"

9. Page 4, line 17.

Following: "number of"

Insert: "remaining"

10. Page 4, line 17

Strike: "farm"

11. Page 4, line 18.

Strike: "that the applicant will raise thereon"

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Amendments to SB 448
Page 2 of 6

12. Page 5, line 23.

Following: "provisions"

Strike: "remainder of line 23 through "conditions" on line 24

13. Page 6, line 3.

Strike: "as it considers"

Insert: "as may be determined"

14. Page 6, line 17

Following: "game"

Insert: "farm"

15. Page 6, lines 23 and 24.

Strike: subsection (1) in its entirety

Re-number: subsequent subsections

16. Page 7, lines 2 and 3

Strike: "attach to"

Insert: "otherwise cause to accompany"

17. Page 7, line 10.

Strike: "24 hours of"

Insert: "a reasonable time after"

18. Page 7, lines 15 through 17.

Strike: subsection (1) in its entirety

Re-number: subsequent subsections

19. Page 7, line 20.

Following: "farm."

Insert: "only"

20. Page 8, line 14.

Strike: "by number"

21. Page 8, line 18.

Following: "game"

Insert: "farm"

22. Page 8, line 19.

Following: "game"

Insert: "farm"

23. Page 8, line 23.

Following: "farm"

Insert: "except as provided in [section 5]"

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Amendments to SB 448
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24. Page 8, line 15.
Following: "first "game"
Insert: "farm"

25. Page 9, line 6.
Strike: "must"
Insert: "may"

26. Page 9, line 9.
Strike: "indigenous"
Following: "game"
Insert: "farm"
Following: "animal"
Insert: "indigenous to the state"

27. Page 9, line 22.
Following: "enforce"
Insert: "only such"
Following: "rules"
Insert: "as are"

28. Page 9, line 24.
Strike: "must"
Insert: "may"

29. Page 10, line 20.
Following: "valid."
Insert: "(1)"

30. Page 10, line 21.
Strike: "may"
Insert: "shall"

31. Page 10, line 22
Following: "license"
Strike: remainder of line 22 through "section" on line 25
Insert: "(2) A game bird farm having a valid license on October 1, 1983, shall receive a game bird farm license.
(3) A fur farm having a valid license on October 1, 1983, shall receive a fur farm license."

32. Page 11, line 2.
Following: "35],"
Strike: "game"
Insert: "the following definitions apply: (1) "Game"

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Amendments to SB 448
Page 4 of 6

33. Page 11.

Following: line 5

Insert: "(2) 'Game bird farm' means an enclosed area upon which game birds may be kept for purposes of obtaining, rearing in captivity, keeping, and selling game birds or parts of game birds as authorized under [sections 20 through 35]."

34. Page 12, line 4.

Strike: "may"

Insert: "shall"

35. Page 12, line 15.

Following: "if"

Insert: "the"

36. Page 12, line 16.

Strike: "may"

Insert: "shall"

37. Page 12, line 17.

Strike: "only"

38. Page 12, line 22.

Following: "rule"

Strike: remainder of line 22 through "renewal" on line 23.

39. Page 13, line 7.

Following: "provision"

Strike: remainder of line 7 through "license" on line 9

Insert: "under which the license was granted"

40. Page 13, line 18.

Following: second "facilities"

Strike: remainder of line 18 through "or" on line 20

Insert: "and"

41. Page 13, line 20.

Following: "such farm"

Strike: remainder of line 20 through "time" on line 21

Insert: "on a scheduled basis or on such other reasonable basis as may be determined necessary"

42. Page 14, line 6.

Following: "game"

Insert: "farm"

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43. Page 14, line 21.
Following: "enforce"
Insert: "only such"
Following: "rules"
Insert: "as are"

44. Page 14, line 22.
Strike: "must"
Insert: "may"

45. Page 17, line 17.
Strike: "furbearer"
Insert: "the following definitions apply: (1) 'Furbearer'"

46. Page 17, following line 19
Insert: "(2) 'Fur farm' means the enclosed land area upon which furbearers may be kept for purposes of obtaining, rearing in captivity, keeping, and selling furbearers or parts of furbearers as authorized under [sections 36 through 48]."

47. Page 18, line 14.
Strike: "may"
Insert: "shall"

48. Page 19, line 1.
Strike: "may"
Insert: "shall"

49. Page 19, line 2.
Strike: "only"

50. Page 19, line 7.
Following: "rule"
Strike: remainder of line 7 through "renewal" on line 8

51. Page 19, line 16.
Following: "provision"
Strike: remainder of line 16 through "license" on line 18
Insert: "under which it was granted"

52. Page 20, line 2.
Following: "farm"
Strike: remainder of line 2 through "or" on line 3
Insert: "and"

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Amendments to SB 446
Page 6 of 6

53. Page 20, line 4.

Strike: "at any reasonable time"

Insert: "on a scheduled basis or on such other reasonable basis
as may be determined necessary"

54. Page 21, line 4.

Following: "enforce"

Insert: "only such"

Following: "rules"

Insert: "as are"

55. Page 21, line 5.

Strike: "must"

Insert: "may"

56. Page 21.

Following: line 23

Insert: "Section 49. Fee limitation for multiple licenses. If
a person is issued more than one license under [sections 1
through 48], the total assessment for initial fees or for
renewal fees for all licenses issued to such person may not
exceed the amount of the largest individual license fee.

Section 50. Waiver of initial fee. No initial license
fee may be assessed against any person who held a game farm,
game bird farm, or fur farm permit on October 1, 1963, unless
there is a break in licensing of more than 1 year."

~~Renumber subsequent sections~~

57. Page 22, line 2.

Strike: "48"

Insert: "49"

58. Page 22, line 4.

Strike: "48"

Insert: "49"

59. Page 11, line 1.

Following: "defined."

Insert: "(1)"

60. Page 17, line 16.

Following: "Definition."

Insert: "(1)"

AND AS AMENDED
BE CONCURRED IN